Court No. 2

IN THE HIGH COURT OF UTTARANCHAL AT AINITAL.

(1) Appeal Against Order No.374 of 2002.

Oriental Insurance Company Ltd.,
Through its Divisional Manager,
Divisional Office, Bhotia Parao,
Nainital Road, Haldwani District-Nainital.
……. Opp.party/appellant.

Versus

Smt.Ajju S/o Sri Dongru and Anr. ….. Claimants/respondents.
Sri Munna Ram and two Ors. ….. Opp.parties/respondents.

(2) Appeal Against Order No.372 of 2002.

Oriental Insurance Company Ltd.,
Through its Divisional Manager,
Divisional Office, Bhotia Parao,
Nainital Road, Haldwani District-Nainital.
……. Opp.party/appellant.

Versus

Sri Ajju S/o Dongru and Anr. ….. Claimants/respondents.
Sri Munna Ram and two Ors. ….. Opp.parties/respondents.

(3) Appeal Against Order No.373 of 2002.

Oriental Insurance Company Ltd.,
Through its Divisional Manager,
Divisional Office, Bhotia Parao,
Nainital Road, Haldwani District-Nainital.
……. Opp.party/appellant.

Versus

Smt.Soudhi and five Ors. …… Claimants/respondents.
Sri Munna Ram and two Ors. …… Opp.parties/respondents.

(4) Appeal Against Order No.375 of 2002.

Oriental Insurance Company Ltd.,
Through its Divisional Manager,
Divisional Office, Bhotia Parao,
Nainital Road, Haldwani District-Nainital.
……. Opp.party/appellant.

Versus

Smt.Indiri Devi and three Ors. ….. Claimants/respondents.
Sri Munna Ram and two Ors. ….. Opp.parties/respondents.

Sri Prabhat Pandey, learned counsel for the appellant,
Sri B.P. Nautiyal, learned counsel for the claimants/respondents.

Dated: 23rd Aug.,2004

Hon'ble P.C. Verma,J.
Hon'ble B.S. Verma, J.

These appeals have been filed by the appellant/respondent-Oriental Insurance Company against the separate awards made by the Motor Accident Claims Tribunal/I Addl. District Judge, Dehradun, on 05.10.2001 in Motor Accident Claim Case nos. 174/1999, 185/1999, 173/1999 and 175/1999 respectively.

2- Since all these cases relate to one and the same incident, at the request of learned counsel for the appellant all these appeals are being heard together and decided by one and common order as the facts and question involved are common.

3- Brief facts giving rise to these appeals are that on 26.9.1999, at about 7.30 A.M. Ablu age aged 42 years, Smt. Gumani aged about 50 years, Puriya aged about 35 year and Diwan Singh aged 40 years respectively in the abovementioned Claim Cases were travelling in bus No. UP 07-4865 and wee going from their villages to Kathiyan. When the said bus, which was being driven rashly and negligently by its driver, reached near Village-Bhatad met with an accident due to which they all died on the spot. The Claimants who are dependents of the deceased have filed separate claim petitions before the Tribunal for compensation.

4- The opposite parties contested the cases by filing their written statements in each case denying all the allegations. The opp.party –Oriental Insurance Company did not deny the insurance of the offending bus with it.

5- The learned Tribunal on the pleadings of the parties framed the following issues in all the cases:-

1. *Whether the Bus No. UP 07-4865 met with an accident due to rash and negligent driving of its driver on 26.9.1999 at about 7.20 A.M. in which the deceased received injuries and died ?*
2. *Whether the deceased was travelling in the bus unauthorisedly? If so, its effect?*
3. *Whether the driver of vehicle Nio. UP07-4865 was having a valid driving licence at the time of accident? If so, its effect?*
4. *Whether the claimants are entitled to get any compensation? If so, to what amount and from which of the party?*

After considering the necessary evidence adduced by the parties the learned Tribunal allowed all these claim petitions by the impugned orders. The learned counsel for the appellant in all these appeals challenged the impugned judgment and awards only on the ground that the issue No.5 which was framed as an additional issue on 13.12.2000 in all these petitioners has not been decided by the learned Tribunal for which the appellant also filed the applications to review the judgment and order dated 05.10.2001 in all the cases. These applications were also dismissed on 11.10.2002. Issue No.5 reads as follows:-

> *"Whether the Insurance Company is not liable to pay and compensation because the vehicle in question was requisitioned for the election duty ?*

6- The learned Tribunal while deciding the review petitions gave its finding this issue has been covered and decided this issue against the Insurance Company on the basis of findings given on issue Nos. 1,2 & 4.

7- We have gone through the entire material on record and found that the learned Tribunal has dealt with all the issues and gave its finding. The bus in question was hired for the purposes of election duty by the Government and the vehicle owner might have obtained the freight

charges. Nothing has been shown to us on behalf of the appellant-Insurance Company so as to warrant any interference with the findings arrived at by the learned Tribunal in the cases under appeals. Accordingly, all the appeals fail on merit.

8- All the appeals are dismissed. The impugned judgment and awards of the learned Tribunal are upheld. No order as to costs.

(B.S.Verma,J.) **(P.C.Verma,J.)**

P.Singh